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October 16, 2007

Andrew G. McBride
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The Hon. Charles L. Brieant
United States District Court
Southern District of New York
300 Quarropas Street
White Plains, NY 10601-4150

Re: *New York SMSA Limited Partnership d/b/a Verizon Wireless, et al. v. Town of Clarkstown, New York, et al.*, Case No. 07-CV-7637 (CLB)(GAY)

Dear Judge Brieant:

In accordance with this Court's order, the parties have conferred regarding the adoption of a discovery plan for the above-referenced matter. I am attaching, on behalf of all parties to this action, a jointly agreed Civil Case Discovery Plan and Scheduling Order ("Plan and Order").

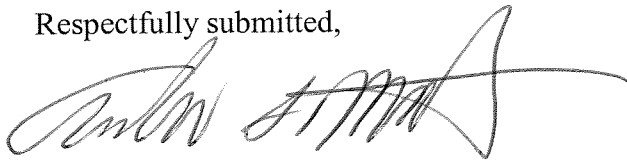
We respectfully advise the Court that all parties believe that, because the nature of plaintiffs' complaint is a facial challenge brought under the Federal Telecommunications Act to the Town's wireless telecommunications facilities law, this matter is very likely to be finally resolved by cross motions for summary judgment without any need for discovery. In light of this, the jointly proposed discovery plan and order provides for a consensual stay of discovery to abide the resolution of the parties' forthcoming cross-motions for summary judgment, to avoid premature discovery and the needless expense of time and resources by this Court, the parties and counsel. See Fed. R. Civ. P. 26(c) & (d); Johnson v. New York Univ. School of Educ., 205 F.R.D. 433 (S.D.N.Y. 2002) (stay of discovery pending resolution of dispositive motion).

Accordingly, I am authorized to represent that all parties join in urging the adoption of the enclosed Plan and Order, including the attached schedule for cross motions for summary judgment. The parties also jointly request the adjournment of the Rule 16 conference, which is currently scheduled for October 26, 2007, to abide the outcome of the cross-motions for summary judgment. In the unlikely event that there remain any outstanding issues to be decided after the resolution of the cross motions for summary judgment, the parties would then propose an appropriate discovery schedule, using the Court's summary judgment rulings for guidance.

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We appreciate the Court's consideration and attention to this matter.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Andrew G. McBride', with a stylized, sweeping flourish extending to the right.

Andrew G. McBride

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- X
:
NEW YORK SMSA LIMITED :
PARTNERSHIP d/b/a VERIZON WIRELESS, :
ET AL. :

Plaintiffs, :

- against - :

TOWN OF CLARKSTOWN, NEW YORK :
and the TOWN BOARD of the TOWN OF :
CLARKSTOWN, NEW YORK, :

Defendants. :
:
----- X

07 Civ. 7637 (CLB) (GAY)

CIVIL CASE DISCOVERY PLAN
AND SCHEDULING ORDER

The following Civil Case Discovery Plan and Scheduling Order is adopted, after consultation with counsel for the parties, pursuant to Rules 26(f) and 16 of the Federal Rules of Civil Procedure.

The case **is not** to be tried to a jury.

Joinder of additional parties must be accomplished **within 90 days of the Court's judgment on the dispositive motions discussed in the attached Exhibit 1 (hereinafter "Judgment Date")**.

Amended pleadings may be filed **within 90 days of the Judgment Date**.

Discovery:

1. Discovery has been stayed until resolution of the pending cross-motions for summary judgment filed in accordance with the schedule set out in the attached Exhibit 1.
2. As a result of the stay of discovery, no discovery deadlines will be set at this time.
3. In the event that this Court's judgment on the cross motions for summary judgment set out in Exhibit 1 does not resolve all the issues raised in this suit, the Court will revisit the timing of discovery following its judgment.

Dispositive motions, if any, must be served on notice as required by Local Civil Rule 6.1, and must be returnable before the Court on a published motion day, no later than three weeks before the ready for trial date.

Next Case Management Conference _____.

(This date will be set by the Court at the first conference.)

Joint Pretrial Order is required only if counsel for all parties agree that it is desirable, or the Court so orders.

This case has been designated to the Hon. George A. Yanthis, United States Magistrate Judge at White Plains for discovery disputes if the Court is “unavailable.”

This Plan and Order may not be changed without leave of the Court or the assigned Magistrate Judge acting under a specific reference order.

SO ORDERED.

Dated:

White Plains, New York

The Hon. Charles L. Brieant
United States District Judge

EXHIBIT 1

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- X
:
NEW YORK SMSA LIMITED :
PARTNERSHIP d/b/a VERIZON WIRELESS, :
ET AL. :

Plaintiffs, :

- against - :

TOWN OF CLARKSTOWN, NEW YORK :
and the TOWN BOARD of the TOWN OF :
CLARKSTOWN, NEW YORK, :

Defendants. :

07 Civ. 7637 (CLB) (GAY)

CIVIL CASE DISCOVERY PLAN
AND SCHEDULING ORDER
EXHIBIT 1

CIVIL CASE DISCOVERY PLAN AND SCHEDULING ORDER EXHIBIT 1

Pursuant to the Order of this Court dated September 14, 2007 and pursuant to the Federal Rules of Civil Procedure, counsel for the parties in this case conferred by teleconference on October 4, 2007, to discuss the matters set forth in Fed. R. Civ. P. 26(f).

The Court, having considered the proposals set forth in the parties' Report on Discovery Plan Pursuant to Fed. R. Civ. P. 26(f) filed on October 16, 2007, this ____ day of _____, hereby ORDERS as follows:

1. All of the parties to this action believe the issues raised in this suit are likely to be resolved by cross motions for summary judgment without resort to discovery.
2. In order to avoid needless expense, the parties have agreed to establish a schedule for cross motions for summary judgment, and wish to defer any potential discovery until after this Court has had an opportunity to rule on these motions.

3. The parties will file motions for summary judgment in accordance with the following schedule:

Filing(s)	Deadline
Plaintiffs' Motion(s) for Summary Judgment	January 11, 2008
Defendants' Response to Plaintiffs' Motion(s) for Summary Judgment; Defendants' Cross Motion(s) for Summary Judgment	February 29, 2008
Plaintiffs' Reply in Support of Their Motion(s) for Summary Judgment; Plaintiffs' Response(s) to Defendants' Cross Motion(s) for Summary Judgment	April 4, 2008
Defendants' Reply in Support of Their Motion(s) for Summary Judgment	May 9, 2008

Pleadings and Parties:

4. Except for good cause shown, no additional parties may be joined, and no pleadings may be amended, more than 90 days after the Court rules on the summary judgment motions.

Discovery:

5. Discovery will be stayed until the Court rules on the summary judgment motions and no discovery deadlines will be set at this time.

6. In the event that resolution of the cross motions for summary judgment does not resolve all the issues raised in this suit, the Court will revisit discovery and set deadlines following its ruling(s).

The Hon. Charles L. Briant
United State District Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

NEW YORK SMSA LIMITED
PARTNERSHIP d/b/a VERIZON
WIRELESS et al.

Plaintiffs,

v.

TOWN OF CLARKSTOWN, and
THE TOWN BOARD OF THE
TOWN OF CLARKSTOWN

Defendants.

Case No. 07-cv-7637 (CLB) (GAY)

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the foregoing was filed via the Court's electronic filing system on October 16, 2007 to the following counsel of record:

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<p>Megan Frances Carroll, Esq. (ML 1064) ROSENBERG CALICA & BIRNEY LLP 100 Garden City Plaza, Suite 408 Garden City, New York 11530 Tel.: 516.747.7400 Fax: 516.747.7480</p> <p><i>Attorneys for Defendants Town of Clarkstown and Town Board of the Town of Clarkstown</i></p>	

/s/

Andrew G. McBride